

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q88588

Hideki FUJIKURA, et al.

U.S. Patent No. 7,655,633

Appln. No.: 10/540,519

Group Art Unit: 1623

Confirmation No.: 6623

Examiner: Traviss C. MCINTOSH III

Filed: June 23, 2005

For: NITROGEN-CONTAINING HETEROCYCLIC DERIVATIVES, MEDICINAL COMPOSITIONS CONTAINING THE AME AND MEDICINAL USE THEREOF

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705

MAIL STOP PATENT EXTENSION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Patentee hereby respectfully requests correction of the Patent Term Adjustment (PTA) listed on the face of U.S. Patent No. 7,655,633 from 403 days to 992 days. This Application for Patent Term Adjustment is filed supplemental to a Request for Recalculation of Patent Term Adjustment in view of *Wyeth* filed on March 24, 2010.

In accordance with 37 C.F.R. § 1.705(d) this Application for Patent Term Adjustment is being filed within two months of the February 2, 2010 issue date of the '633 Patent (also referred herein as "the present patent"), and is therefore timely filed. The Director is authorized to charge Patentee's Deposit Account 19-4880 for the required fee under 37 C.F.R. § 1.705(b)(1) as specified in 37 C.F.R. § 1.18(e) (\$200.00).

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As required by § 1.705(b)(2), a Statement of the Facts is set forth below. For the purposes of clarity, references to “this Application” or “the Application” refer to U.S. Application No. 10/540,519.

I. Statement of the Facts

A. The correct patent term adjustment and the basis or bases under §1.702 for the adjustment

Pursuant to §§ 1.702(a), Patentee submits that the total correct patent term adjustment for the present Patent should be 992 days. As discussed in further detail below, this number is derived from the sum of the Office’s delay calculated from §§ 1.702(a-e) (1,175 days), minus the sum of Applicant’s delay calculated from § 1.704 (183 days). Patentee’s calculations are discussed in more detail below.

B. Delay attributable to the USPTO (the relevant dates as specified in §§1.703(a) through (e) for which an adjustment is sought)

Patentee respectfully submits that the total delay attributable to the USPTO under 37 C.F.R. § 1.703 is 1,175 days.

The delay attributable to the USPTO under 37 C.F.R. § 1.703(a)(1) is 586 days. In particular, the Application met the requirements of 35 U.S.C. § 371 on June 23, 2005. However, the first Office Action did not issue until March 31, 2008. Thus, under 37 C.F.R. § 1.703(a)(1) this represents a 586 day delay between the 14-month anniversary of the Application’s § 371 completion date and the date on which the first Office Action issued.

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The delay attributable to the USPTO under 37 C.F.R. § 1.703(b) is 589 days. In particular, there were 589 days between the three-year anniversary of the Application's § 371 completion date (June 23, 2008) and the February 2, 2010 issue date of the present patent.

Accordingly, Patentee respectfully submits that the total delay attributable to the USPTO under 37 C.F.R. § 1.703(a)-(e) is 1,175 days.

C. Delay attributable to Patentee (any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination as set forth in § 1.704)

Patentee respectfully submits that the total delay attributable to the Applicant under 37 C.F.R. § 1.704 is 183 days. This delay stems from (1) the 92 day delay under 37 C.F.R. § 1.704(b) between the USPTO's mailing of the March 31, 2008 Office Action and Patentee's September 30, 2008 Response; and (2) the 91 day delay under 37 C.F.R. § 1.704(b) between the USPTO's mailing of the January 8, 2009 Office Action and Patentee's July 8, 2009 Response.

In view of the above, the total delay incurred by Patentee in the 'Application is 183 days.

D. Whether the application is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer

The present patent is not subject to a Terminal Disclaimer.

E. The adjustment as specified in 37 C.F.R. § 1.703(f) to which the '378 Application is entitled

The total amount of patent term adjustment is specified in 37 C.F.R. § 1.703(f) as being the period of delay attributable to the USPTO under 37 C.F.R. §§ 1.703(a-e) less the amount of

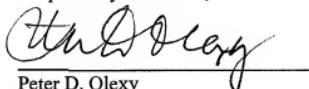
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delay attributable to Applicant under 37 C.F.R. § 1.704. Accordingly, the present patent is entitled to 992 days of PTA. This number is derived from the sum of the delay attributable to the USPTO under §§ 1.702(a-e) (1,175 days), minus the sum of the delay attributable to Applicant under § 1.704 (183 days).

II. Conclusion

In summary, Patentee respectfully submits that it is proper that the USPTO grant Patentee's Application for Patent Term Adjustment. Favorable consideration is respectfully requested.

Respectfully submitted,



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